



Petition Number: 1611-VU-06

Subject Site Address: 201 Mill Street

Petitioner: Downtown Westfield Association

Request: The Petitioner is requesting a Variance of Use to allow a Retail, Low Intensity use within an MF-1: Multi-Family Low Density District (Article 4.10).

Current Zoning: MF-1: Multi-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.20 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions
4. Petitioner's Narrative

Staff Reviewer: Daine Crabtree, Associate Planner

PROPERTY INFORMATION

The subject property is 0.20 acre +/- in size and located at 201 Mill Street (the "Property") (see **Exhibit 2**). The Property is zoned MF-1: Multi-Family Low Density.

ANALYSIS

The Appellant is requesting a use variance to allow a Retail, Low Intensity use, specifically a health and wellness business, at 201 Mill Street, currently zoned MF-1: Multi-Family Low Density. The use classification "Retail, Low Intensity"¹ is not a permitted use within the MF-1 District.

The Property is located within an area that is identified in the Grand Junction Addendum (the "Addendum"), an addition to the Westfield-Washington Township Comprehensive Plan, as the Grand Junction Plaza Block (the "Sub-Area") of the Grand Junction Sub-District.

¹Chapter 12 of the UDO defines "Retail, Low Intensity" as "retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include but are not limited to: art gallery, banks and savings and loans, bakery with limited seating, barber and beauty shop, book store (small), camera store, convenience store (small), craft gallery (small), drug store (small), dry cleaning pick-up, flower shop, gift shop, jewelry store, laundromats and self-service dry cleaning, mail order stores, meat market, news dealer and stationary stores. Generally, a business under eight thousand (8,000) square feet qualifies as small for purposes of this definition."

The Addendum states that the Sub-Area should, “have a more urban form than the village or old town form of other sub-areas”. The Addendum also states that land uses within the Sub-Area, “are encouraged to be a mix of uses typically associated with central business and entertainment districts and that residential uses should be restricted from the first floor within the sub-area.”

The lot to the west of the Property (203 Jersey Street) was granted a variance (1509-VU-08) at the September 15, 2015 Board of Zoning Appeals (BZA) meeting, allowing a beauty and barbershop in a former residence.

This proposal has been reviewed by the Grand Junction Task Group and has received their support.

Details of the Variance Request:

Variance of Use: The Property is currently zoned MF-1: Multi-Family Low Density. Low Intensity Retail is not a permitted use in that zoning district (Article 13.2, Use Table).

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the November 1, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than the Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgment shall be provided to the

²Article 10.14(I) Process and Permits; Variances; Conditions of the UDO

³Article 10.14(K) Process and Permits; Variances; Acknowledgment of Variance of the UDO



Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Use: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for the variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and
5. The approval does not interfere substantially with the Comprehensive Plan.

DEPARTMENT COMMENTS

The area immediately surrounding the Property is either being redeveloped or contemplated for redevelopment in the future in accordance with the Comprehensive Plan and its subsequent amendments for Downtown Westfield such as the Grand Junction Plaza. As a result of these economic development opportunities, there is an emerging desire for transitional businesses in the downtown area that contribute to further activity and liveliness. For these reasons, the Department supports the proposed variance of use to permit a low-intensity retail use, specifically a health and wellness business, on the Property.

The Department recommends approval of 1611-VU-06 with the following condition and findings:

Recommended Conditions:

1. The use of the Property shall be limited in scope and operation to the Petitioner's Narrative, attached hereto and incorporated herein as Exhibit 4. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.

Recommended Findings for Variance of Use (1611-VU-06):

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that allowing a health and wellness business to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the request is consistent with the uses contemplated in the City's Comprehensive Plan. The Grand Junction Task Group has stated this proposal is a good interim use in the Grand Junction Plaza area until such time as the property is redeveloped, and a good business to generate visitors and excitement during the Plaza's transition period.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the proposed use will be utilizing only those improvements currently existing on the property which is consistent with the character of the surrounding area. Economic redevelopment activity is anticipated within the proximity of the Property, including the proposed Grand Junction Plaza, that will include more commercial operations.

- 3) *The need for the variance of use arises from some condition peculiar to the property involved.*

Finding: The use of Retail, Low Intensity is not permitted within the MF-1: Multi-Family Low Density District. The Comprehensive Plan and subsequent Comprehensive Plan Addendums have identified an emerging economic development opportunity in downtown. As this redevelopment will occur overtime, the transitional period warrants the adaptive reuse of existing structures to promote downtown as a destination and lively center to the community.

- 4) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: The use of Retail, Low Intensity is not permitted within the MF-1: Multi-Family Low Density District. Strict adherence to the Zoning Ordinance would allow for arguably more intense and related uses (childcare/daycare center, nursing home, assisted living facilities); however, would not permit the less intense, but albeit, commercial operation of a low-intensity health and wellness business.



5) *The approval does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) includes this property in the area designated as “Downtown”. The Comprehensive Plan recommends that land uses in the Downtown area include commercial, offices, and retail as well as residential. The use of the Property as Retail, Low Intensity of a health and wellness nature would not interfere substantially with the Comprehensive Plan.

Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.